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10	BEFORE THE BOARD OF REGISTERED NURSING
11	DEPARTMENT OF CONSUMER AFFAIRS
12	STATE OF CALIFORNIA
13	In the Matter of the Statement of Issues Against: Case No. 2012-104
14	
15	ASHLEY CLAIRE HARLESS 841 Bayside Rd., Apt. 10 STATEMENT OF ISSUES
16	Arcata, California 95521
17	Applicant/Respondent.
18	
19	Complainant alleges:
20	<u>PARTIES</u>
21	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
22	her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23	Consumer Affairs.
24	2. On or about February 22, 2011, the Board of Registered Nursing, Department of
25	Consumer Affairs received an application for a Registered Nursing License from Ashley Claire
26	Harless (Applicant, or in the alternative, Respondent). On or about February 18, 2011, Ashley
27	Claire Harless certified under penalty of perjury to the truthfulness of all statements, answers, and
28	representations in her application. The Board denied the application on May 4, 2011.

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 2736 of the Business and Professions Code (Code) provides, in pertinent part, that the Board of Registered Nursing (Board) may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.
 - 5. Section 480 of the Code states in pertinent part:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- "(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- "(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

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6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
 "..."
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

11 . . . 11

7. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

"..."

"(c) Theft, dishonesty, fraud, or deceit.

"..."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Substantially Related Conviction)

- 9. Applicant Ashley Claire Harless's application for a Registered Nursing License is subject to denial under Code section 2761, subdivisions (a) and (f), Code section 480, subdivisions (a)(1) and (a)(2), pursuant to Code section 493 as defined in title 16, section 1444(c) of the California Code of Regulations, based on the following:
- a. On or about April 19, 2011, in a criminal proceeding entitled *People of the State of California vs. Ashley Claire Harless*, in Superior Court of California, County of Shasta, Case No. 10-02498, the Applicant was convicted by her plea of nolo contendere to the misdemeanor violation of Penal Code section 484(A)/488 (petty theft/larceny). The Applicant was placed on revocable community release for a period of 12 months on the following terms: obey all laws; complete 5 days of community service, consecutive to any other sentence; pay fines and fees as assessed by the Court; stay away/not have contact with Macy's; and advised that a subsequent theft offense can be filed as a felony.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

10. Applicant Ashley Claire Harless's application for a Registered Nursing License is subject to denial under Code section 2761, subdivisions (a) and (f), Code section 480, subdivisions (a)(3)(A), and subdivisions (a)(3)(B), pursuant to Code section 493 as defined in title 16, section 1444(c) of the California Code of Regulations, in that her aforementioned conviction set forth in paragraph 9 constitutes unprofessional conduct which would be grounds for discipline of the Applicant had been licensed as a Registered Nurse.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Ashley Claire Harless for a Registered Nursing License;

1	2. Taking such other and further action as deemed necessary and proper.
2	
3	DATED: 8-15-11 Jourse, R. Sailey, LOUISE R. BAILEY, M.ED., RN
4	Executive Officer Board of Registered Nursing
5	Department of Consumer Affairs State of California
6	Complainant
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